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Elections to fill vacancies in subsidiary organs and other elections: election of fourteen members of the Human Rights Council

Note verbale dated 11 January 2010 from the Permanent Mission of Maldives to the United Nations addressed to the President of the General Assembly

The Permanent Mission of the Republic of Maldives to the United Nations has the honour to inform the President of the General Assembly that the Republic of Maldives has presented its candidature to the Human Rights Council of the United Nations for the 2010-2013 term at the elections to be held in May 2010 in New York.

The Permanent Mission of the Republic of Maldives is pleased to enclose herewith the commitments and pledges of the Republic of Maldives in its candidacy to the Human Rights Council for the 2010-2013 term.

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Annex to the note verbale dated 11 January 2010 from the Permanent Mission of Maldives to the United Nations addressed to the President of the General Assembly

Aide memoire
Candidacy of the Republic of Maldives for the Human Rights Council (2010-2013): human rights contributions, commitments and pledges

I. Our vision

In 2003-2004, anti-Government riots broke out in Male', the capital of Maldives, sparked by a series of custodial deaths and widespread allegations of torture. The then Government, which had held power for 25 years, declared a state of emergency and suspended human rights. The country's social, economic and political landscape at the time was characterized by inequality, mistrust, anger and fear.

Today, just over five years later, Maldives is a country transformed. In October 2008, the country held its first-ever multiparty democratic poll and elected Mr. Mohamed Nasheed, a former prisoner of conscience, as declared by Amnesty International, as its new President. The democratic transfer of power was smooth and peaceful.

In 2003, the Constitution ensured the consolidation of power in the hands of the few and was effectively silent on the rights of the many; political parties were considered incompatible with the law; the courts were under the control of the Executive; there were no independent media; freedom of speech and association was strictly curtailed; and civil society was non-existent. Today, the country boasts a new twenty-first-century Constitution that provides for a strict separation of powers and includes a comprehensive bill of rights; there are 12 functioning political parties, an independent judiciary, headed by a new Supreme Court, a free and vibrant press with a wide array of private newspapers, magazines, television stations and radio networks; and a thriving community of non-governmental organizations that has emerged, covering issues as diverse as children's rights, Government corruption, detainee rights and environmental protection.

The peaceful democratic transition of Maldives and the related blossoming of human rights are a home-grown achievement, made possible through the dedication and sacrifice of ordinary Maldivians. However, the success also reflects a strong, mutually respectful and effective partnership that has evolved over the past five years between Maldives and the international human rights community.

With this in mind, the vision of the country for its participation in the Human Rights Council is threefold.

First, Maldives fully understands, through first-hand experience, the power of human rights to promote and guide domestic reform, reform that benefits all people and helps to build a fairer and more just society. Maldives pledges to bring this understanding and belief to all of its work in the Human Rights Council.

Second, although much has been achieved in the last few years, Maldives also understands that progress can be fragile and that human rights, both civil and

political, and economic, social and cultural rights, require constant care and vigilance. Maldives therefore promises to use its membership in the Council to consolidate and strengthen democracy and human rights at home.

Third, Maldives firmly believes that its partnership with the international human rights system, led by the Human Rights Council, played a crucial role in the success of the reform programme. Engagement with treaty bodies, openness and cooperation with special procedures, cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and regular dialogue and experience-sharing with other States in the Human Rights Council have all served to give momentum and direction to national efforts to strengthen human rights protection. Maldives therefore understands the importance of the Human Rights Council and human rights mechanisms, and pledges to work within the Council to strengthen and support the international human rights system.

II. Our commitment at the national level

Over the past five years, Maldives has taken a wide range of important steps in pursuit of the full enjoyment of human rights for its people. Some of the key reforms are outlined below.

In August 2008, after four years of work by the Constitutional Assembly, a brand new Constitution was ratified. The new document represents a quantum leap for democratic governance, the rule of law and human rights in Maldives. Key innovations of the new text include, inter alia: a comprehensively revised human rights chapter that is fully in line with the International Bill of Human Rights; the formal establishment of a party political system; direct multiparty elections for the post of President; the introduction of a two-term limit for the Presidency; the removal of the gender bar on running for the Presidency; the establishment of independent oversight and executive agencies, including a Human Rights Commission, an Elections Commission and a Civil Service Commission; and strengthened Parliamentary oversight, including endorsement of cabinet portfolios and ambassadorial appointments, civilian control of the armed forces and approval of international treaty ratifications. The 2008 Constitution significantly strengthens the independent judiciary through, inter alia: the creation of the Supreme Court; the independent Judicial Services Commission to appoint and dismiss judges; and the creation of the post of Prosecutor General.

In August 2006, the Human Rights Commission was created by the Government as a fully independent statutory body. Since that time, the Commission has established itself as a reliable and trusted independent voice on human rights in the country. In May 2008, the Commission was also appointed as the National Preventive Mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

A key aspect of domestic human rights reforms in Maldives has been the establishment of a coherent, efficient, independent and fair judicial system. In addition to the strengthening of the judiciary through constitutional reform (including through the creation of the new Supreme Court and the Judicial Services Commission), Maldives has also tabled, and in many cases enacted, a wide range of detailed bills, including: a completely new Penal Code, which successfully combines sharia law, common law and international human rights law; a new sentencing bill; a new Criminal Procedures Code; an evidence bill; a national

security bill;[1] a police bill;[2] a bill on detention procedures; a parole bill; a bill on the judicature and a Judicial Services Commission bill. The Maldives has also established the post of Prosecutor General and, in July 2007 took the historic step of appointing the country's first-ever female judges.

One of the most significant achievements of the democratization programme has been the introduction of a political party system. Since the vote by Parliament in June 2005 to approve the introduction of political parties in the country, 12 political parties have been registered and are active in national politics. The parties regularly hold political rallies, promote their manifestos freely and receive equal access to media including State television and radio stations. State funding is also allocated to all political parties on the basis of registered membership numbers. A bill on political parties was tabled by the Government on 19 February 2006. Following rejection by Parliament, the Government is in the process of formulating a new bill.

On 27 January 2008, the Constitutional Assembly unanimously voted to adopt a clause in the 2008 Constitution enshrining "the right to peaceful assembly without prior permission". With this step, Maldives has moved to bring the country fully into line with international standards and obligations as laid down by the International Covenant on Civil and Political Rights. With the ratification of the 2008 Constitution on 7 August 2008, the right to freedom of assembly is now enshrined in chapter II, article 32, and is therefore fully enjoyed by all Maldivians.

A free press is often regarded as the "fourth estate" of liberal democracy and Maldives has consistently taken the view that political modernization must go hand-in-hand with steps to create a strong, independent and responsible media. With this in mind, four key bills[3] and a related code of conduct (together constituting the "media reform package") have been drafted and submitted to Parliament, which together are designed to define the rights and responsibilities of the free media and enshrine these rights and responsibilities in legislation that is fully compliant with international standards and norms. Today, Maldives boasts a vibrant media community encapsulating a broad cross section of political and social views. There are already 12 daily newspapers, four private television stations, seven private radio stations and a myriad of magazines and other publications operating in a country with a population of only 300,000 people.

Finally, human rights and the rule of law are now independently overseen and protected by a range of new independent bodies and agencies, including: the Human Rights Commission of Maldives; the Elections Commission; the Civil Service Commission; the Anti-Corruption Commission; the Jail Oversight Commission; the Police Integrity Commission; the Office of the Ombudsman; and, as of May 2009, the Maldives Red Crescent Society.

III. Our commitment at the international level

At every stage in its efforts to move human rights to the centre stage of national development, Maldives has made a consistent effort to be transparent and accountable. The country has sought to cooperate with international organizations

[1] National Security Act enacted on 30 April 2008.

[2] Police Act enacted on 5 August 2008.

[3] A media freedom bill; a freedom of information bill; a Maldives media council bill; and a bill on the registration and publication of newspapers and magazines.

and non-governmental organizations in order to ensure that human rights reforms comply with the very highest international standards.

Maldives is proud to have now signed and/or ratified eight of the nine core international human rights instruments together with many of the optional protocols and is continuing work to fulfil obligations under these instruments.[4] Maldives is also strengthening its implementation procedures and its compliance with international treaty reporting obligations. Over the past two years, the country has presented four treaty reports. This progress will be further boosted by its decision, in August 2007, to develop a common core document that will streamline treaty reporting. Maldives is one of the first countries in the world to take this step.

It is also noteworthy that Maldives was the first country in Asia to ratify the Optional Protocol to the Convention against Torture and, in December 2007, became one of the first countries to receive the Subcommittee on the Prevention of Torture. Subsequent to the visit, Maldives took the decision to make the confidential report and recommendations of the Subcommittee publicly available.

In April 2006, Maldives extended a standing invitation to all United Nations special procedures to visit the country and report on developments. Thus far, four mandate-holders have undertaken missions: the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on adequate housing; and the Special Rapporteur on the right to freedom of opinion and expression. Maldives is also in discussion with the Special Rapporteur on violence against women about a visit later in 2010. Maldives is firmly committed to acting upon the recommendations of the mandate holders. For example, following the visit of the Special Rapporteur on the independence of judges and lawyers, key recommendations such as the need to appoint female judges, the need for a Prosecutor General's Office and the importance of a Judicial Services Commission to ensure the independence of judges were immediately acted upon.

In recent years, Maldives has developed a strong cooperative relationship with OHCHR. In 2007, Maldives invited OHCHR to establish a permanent presence in the country, an invitation which was accepted with the posting of a national Human Rights Adviser. Maldives has also invited both the High Commissioner and the Deputy High Commissioner to visit the country at their convenience, and has contributed financially to the work of OHCHR. In November 2009, Maldives hosted the OHCHR regional colloquium for judges, which focused on promoting equality and non-discrimination.

Finally, since its inauguration in 2006, Maldives has been an active participant in the Human Rights Council as an observer State. Indeed, the Maldives' decision to open a diplomatic mission in Geneva in 2006 was based on a wish to engage with the Council and related human rights mechanisms. Most significantly, Maldives has led efforts to understand, draw attention to and respond to the human rights implications of global climate change and related environmental degradation. In this regard, Maldives was the lead sponsor of Human Rights Council resolutions 7/23 (adopted by consensus with 79 co-sponsors) and 10/4 (adopted by consensus with

[4] A comprehensive list of all human rights treaties Maldives has acceded/signed is provided in the enclosure.

89 co-sponsors) on "Human rights and climate change". Maldives also organized a Human Rights Council panel on the subject during the Council's eleventh session.

IV. Our pledges

Maldives will bring a unique dimension and perspective to the important work of the Human Rights Council.

Maldives is a small island developing State. Although the 38 small island developing States in the United Nations family make up 20 per cent of the total membership of the United Nations and 28 per cent of developing country membership, to date they have been chronically underrepresented in the Council. Small island developing States bring a range of strengths to the international system, including a strong belief in multilateralism, an emphasis on dialogue, cooperation and humility, a balanced and unbiased approach to important challenges and an independent and sensible voice in key debates.

Maldives is also a member of the Asian Group, the South Asian Association for Regional Cooperation (SAARC), the Alliance of Small Island States (AOSIS), the Organization of the Islamic Conference (OIC), the Commonwealth and the Non-Aligned Movement.

If elected, Maldives pledges to work actively in a spirit of cooperation, inclusiveness and mutual respect to ensure that the Council functions as a credible and effective tool to bring tangible on-the-ground improvements in the promotion and protection of human rights and fundamental freedoms worldwide. In particular, its approach to the Human Rights Council will be built upon and guided by the following principles:

Inviolability of human rights: Maldives holds that all human rights are inviolable and universal. Irrespective of where they are born, all people deserve the same opportunity to live in peace, prosperity, security and happiness. Moreover, Maldives believes that when human rights are respected, society as a whole benefits; and when they are ignored or downtrodden, society as a whole suffers. Maldives would therefore use its membership of the Council to promote and protect the rights of all people everywhere in a non-selective, non-politicized and equitable manner.

Centrality of human rights: Maldives holds that human rights have systemic importance at both a national level and the international level. Domestically, human rights must be afforded a central place in national development if society is to evolve in a sustainable and equitable manner. Internationally, human rights, together with security, economic and social development and environmental protection, must form one of the core pillars of the multilateral system. Maldives therefore attaches great importance to the work of the Human Rights Council as the pre-eminent global forum for promoting universal respect for the protection of all human rights and fundamental freedoms.

Partnership: Maldives holds that efforts to strengthen human rights must be organic, they must be driven and shaped by national stakeholders responding to national needs and sensitive to national circumstances. Real and lasting change cannot be imposed from outside. Notwithstanding, it is equally true that the international human rights system, led by the Council, has a vital role to play in encouraging and supporting change. Change, in other words, must be based upon a

partnership between a State and the wider international community, with both sides being open to engagement and dialogue, both sides acting in good faith, both sides being transparent and objective about challenges and both sides demonstrating a willingness to work together in a cooperative manner.

Hope: Maldives holds that a central role of the Human Rights Council is to provide hope to vulnerable people and communities around the world by showing them that their voices are being heard and that their needs are being addressed. Therefore, while the Council and related mechanisms must be premised on the importance of forming partnerships with relevant States, the international community should at the same time be ready and willing to recognize and speak out against human rights violations, including gross and systematic violations, wherever they occur, in a timely, unbiased and non-selective manner. Such interventions should be non-condemnatory, premised on the belief that change is possible in all circumstances and that the role of the international community is to encourage and support such change.

An objective voice: the candidature of Maldives is based solely on a desire to protect and nurture the fundamental rights and freedoms of individual people in Maldives and elsewhere. Our actions will be guided by a wish to give voice to their plight and improve their lives in a fair, balanced and independent manner.

Enclosure

Human Rights Conventions

Convention on the Prevention and Punishment of the Crime of Genocide
9 December 1948, New York: accession, 24 April 1984

International Convention on the Elimination of All Forms of Racial Discrimination
7 March 1966, New York: accession, 24 April 1984

International Convention on the Suppression and Punishment of the Crime of Apartheid
30 November 1973, New York: accession, 24 April 1984

Convention on the Elimination of All Forms of Discrimination against Women
18 December 1979, New York: accession, 1 July 1993

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
6 October 1999, New York: accession, 13 March 2006

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
10 December 1984, New York: accession, 20 April 2004

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
18 December 2002, New York: signature, 14 September 2005: ratification, 15 February 2006

International Convention against Apartheid in Sports
10 December 1985, New York: signature, 3 October 1986

Convention on the Rights of the Child
20 November 1989, New York: signature, 21 August 1990: ratification, 11 February 1991

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
25 May 2000, New York: signature, 10 May 2002: ratification, 29 December 2004

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
25 May 2000, New York: signature, 10 May 2002: ratification, 10 May 2002

International Covenant on Civil and Political Rights
16 December 1966, New York: accession, 19 September 2006

Optional Protocol to the International Covenant on Civil and Political Rights
16 December 1966, New York: accession, 19 September 2006

International Covenant on Economic, Social and Cultural Rights
16 December 1966, New York: accession, 19 September 2006

International Convention for the Protection of All Persons from Enforced Disappearance
20 December 2006, New York: signature, 6 February 2007

United Nations Convention on the Rights of Persons with Disabilities
13 December 2006, New York: signature, 2 October 2007